

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

MICHAEL F. BLAKE,

Plaintiff,

v.

GENERAL MOTORS LLC AND MOORE
BUICK GMC TRUCK, INC
Defendants

CASE NO. 1:20-cv-3337

MOORE BUICK GMC TRUCK, INC.,

Third-Party Plaintiff(s),

v.

VAN BUREN GMC SALES CORP., VAN
BUREN TRUCK SALES CORP., and
ROUGH COUNTRY LLC,

Third-Party Defendants.

**ANSWER OF THIRD-PARTY DEFENDANT
ROUGH COUNTRY LLC**

Third-Party Defendant Rough Country LLC (“RC” or “Defendant”), by its undersigned attorneys, Hawkins Parnell & Young LLP, as and for its Answer to the Third-Party Complaint (the “Complaint”) of Third Party-Plaintiff/Defendant Moore Buick GMC Truck, Inc. (“Third-Party Plaintiff”), states as follows:

THE PARTIES

1. As to the allegations in paragraph 1 of the Complaint, RC does not possess sufficient knowledge to either admit or deny allegations in paragraph 1 and on that basis denies the allegations contained therein.

2. As to the allegations in paragraph 2 of the Complaint, RC does not possess sufficient knowledge to either admit or deny allegations in paragraph 2 and on that basis denies the allegations contained therein.

3. As to the allegations in paragraph 3 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 3 and on that basis denies the allegations contained therein.

4. As to the allegations in paragraph 4 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 4 and on that basis denies the allegations contained therein.

5. As to the allegations in paragraph 5 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 5 and on that basis denies the allegations contained therein.

6. As to the allegations in paragraph 6 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 6 and on that basis denies the allegations contained therein.

7. As to the allegations in paragraph 7 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 7 and on that basis denies the allegations contained therein.

8. As to the allegations in paragraph 8 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 8 and on that basis denies the allegations contained therein.

9. As to the allegations in paragraph 9 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 9 and on that basis denies the allegations contained therein.

10. As to the allegations in paragraph 10 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 10 and on that basis denies the allegations contained therein.

11. As to the allegations in paragraph 11 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 11 and on that basis denies the allegations contained therein.

12. As to the allegations in paragraph 12 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 12 and on that basis denies the allegations contained therein.

13. As to the allegations in paragraph 13 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 13 and on that basis denies the allegations contained therein.

14. As to the allegations in paragraph 14 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 14 and on that basis denies the allegations contained therein.

15. As to the allegations in paragraph 15 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 15 and on that basis denies the allegations contained therein.

16. As to the allegations in paragraph 16 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 16 and on that basis denies the allegations contained therein.

17. As to the allegations in paragraph 17 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 17 and on that basis denies the allegations contained therein.

18. As to the allegations in paragraph 18 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 18 and on that basis denies the allegations contained therein.

19. As to the allegations in paragraph 19 of the Complaint, RC does not possess sufficient knowledge to admit or deny the allegations in paragraph 19 and on that basis denies the allegations contained therein.

20. As to the allegations in paragraph 20 of the Complaint, RC does not possess sufficient knowledge to either admit or deny the allegations in paragraph 20 and on that basis denies the allegations contained therein.

21. As to the allegations in paragraph 21 of the Complaint, RC admits that it has authorized dealers within the State of New York and denies the remaining allegations therein.

22. As to the allegations in paragraph 22 of the Complaint, RC admits that it was incorporated in the State of Delaware and that its principal place of business is currently located in Dyersburg, Tennessee and denies the remaining allegations therein.

23. As to the allegations in paragraph 23 of the Complaint, RC admits that it has certified dealers within New York State and denies the remaining allegations therein.

24. As to the allegations in paragraph 24 of the Complaint, RC admits that it has certified dealers within New York State and denies the remaining allegations therein.

25. As to the allegations in paragraph 25 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC denies the allegations contained therein.

26. As to the allegations in paragraph 26 of the Complaint, RC denies those allegations.

27. As to the allegations in paragraph 27 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC admits that it has certified dealers within New York State and denies the remaining allegations therein.

28. As to the allegations in paragraph 28 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC denies the allegations therein.

29. As to the allegations in paragraph 29 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC denies the allegations therein.

JURISDICTION AND VENUE

30. As to the allegations in paragraph 30 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC does not

possess sufficient knowledge to admit or deny the remaining allegations in paragraph 30 and on that basis denies allegations contained therein.

31. As to the allegations in paragraph 31 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 31 and on that basis denies allegations contained therein.

32. As to the allegations in paragraph 32 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 32 and on that basis denies allegations contained therein.

INITIAL COMPLAINT

33. As to the allegations in paragraph 33 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 33 and on that basis denies allegations contained therein, and specifically denies that any document has been attached to the Complaint as an exhibit.

34. As to the allegations in paragraph 34 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 34 and on that basis denies allegations contained therein

35. As to the allegations in paragraph 35 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 35 and on that basis denies allegations contained therein.

36. As to the allegations in paragraph 36 of the Complaint, RC denies that it possesses knowledge sufficient to admit or deny the allegations in paragraph 36 and on that basis denies those allegations.

37. As to the allegations in paragraph 37 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 37 and on that basis denies allegations contained therein.

38. As to the allegations in paragraph 38 of the Complaint, RC denies allegations contained therein.

AS AND FOR A RESPONSE TO THE FIRST CAUSE OF ACTION

39. As to the allegations in paragraph 39 of the Complaint, RC incorporates its responses to paragraphs 1 through 38 of the Complaint as though set forth in full.

40. As to the allegations in paragraph 40 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 40 and on that basis denies allegations contained therein.

41. As to the allegations in paragraph 41 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 41 and on that basis denies the allegations contained therein.

42. As to the allegations in paragraph 42 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 42 and on that basis denies the allegations contained therein.

43. As to the allegations in paragraph 43 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 43 and on that basis denies the allegations contained therein.

44. As to the allegations in paragraph 44 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC denies the allegations contained therein.

AS AND FOR A RESPONSE TO THE SECOND CAUSE OF ACTION

45. As to the allegations in paragraph 45 of the Complaint, RC incorporates its responses to paragraphs 1 through 44 of the Complaint as though set forth in full.

46. As to the allegations in paragraph 46 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 46 and on that basis denies the allegations contained therein.

47. As to the allegations in paragraph 47 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 47 and on that basis denies the allegations contained therein.

48. As to the allegations in paragraph 48 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 48 and on that basis denies the allegations contained therein.

49. As to the allegations in paragraph 49 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 49 and on that basis denies the allegations contained therein.

50. As to the allegations in paragraph 50 of the Complaint, The allegations are legal conclusions which do not require a response, but to the extent a response is required, RC denies the allegations contained therein.

AS AND FOR A RESPONSE TO THE THIRD CAUSE OF ACTION

51. As to the allegations in paragraph 51 of the Complaint, RC incorporates its responses to paragraphs 1 through 50 of the Complaint as though set forth in full.

52. As to the allegations in paragraph 52 of the Complaint, RC denies those allegations.

53. As to the allegations in paragraph 53 of the Complaint, RC admits that, among other products, RC manufactures Leveling Lift kits and denies the remaining allegations contained therein.

54. As to the allegations in paragraph 54 of the Complaint, RC does not possess sufficient knowledge to admit or deny the remaining allegations in paragraph 54 and on that basis denies the allegations contained therein.

55. As to the allegations in paragraph 55 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC denies the allegations contained therein.

56. As to the allegations in paragraph 56 of the Complaint, the allegations are legal conclusions which do not require a response, but to the extent a response is required, RC denies the allegations contained therein.

FURTHER, to the extent any allegation not sufficiently referenced above, the allegation is expressly denied, as it is also denied that Third-Party Plaintiff is entitled to any relief in the unnumbered paragraph after paragraph 56 of the Complaint.

AFFIRMATIVE DEFENSES

Without assuming the burden of proof with respect to any issue as to which the applicable law does not put the burden on RC, RC asserts the following defenses:

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

The Complaint fails, in whole or in part, to state a claim for which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

Third-Party Plaintiff has not sustained any cognizable damages for which it can recover as a result of the incidents alleged in the Complaint.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Third-Party Plaintiff has failed to mitigate and/or reduce its damages and losses, if any, as alleged in the Complaint.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Third-Party Plaintiff's claims are the result of the acts or omissions of a third-party for which RC is not legally responsible.

ADDITIONAL DEFENSES

RC reserves the right to supplement or amend this Answer, including through the addition of further affirmative defenses, based upon the course of discovery and proceedings in this action.

DEMAND FOR JURY TRIAL

RC demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b).

PRAYER FOR RELIEF

WHEREFORE, RC respectfully requests that the Court enter judgment in favor of RC and against Third-Party Plaintiff by (a) dismissing the Complaint in its entirety; (b) awarding RC its costs and expenses incurred in this action, including reasonable attorney's fees; and (c) granting

RC such other and further relief as the Court deems just and proper.

DATED: October 20, 2020

HAWKINS PARNELL & YOUNG LLP

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